



**MISSOURI ETHICS COMMISSION**

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James Klahr

Executive Director

July 1, 2015

Mark Furrer  
11210 Pointe Ct  
Sunset Hills MO 63127

MEC No. 15-0017-I

Dear Mr. Furrer:

The Missouri Ethics Commission considered the complaint filed against you at its June 30, 2015 meeting. The complaint alleged that you violated Chapter 79, RSMo, and Chapter 105, RSMo, when you presided over and voted on board of aldermen actions relating to the board's consideration of ordinances related to your potential impeachment.

Staff reviewed the specific allegations in light of the records provided by the city as well as the relevant statutes and case law.

Under Section 105.452.1(4), RSMo:

1. No elected or appointed official or employee of the state or any political subdivision thereof shall . . . .

(4) Favorably act on any matter that is so specifically designed so as to provide a special monetary benefit to such official or his spouse or dependent children, including but not limited to increases in retirement benefits, whether received from the state of Missouri or any third party by reason of such act. For the purposes of this subdivision, "special monetary benefit" means being materially affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected. In all such matters such officials must recuse themselves from acting and shall not be relieved by reason of the provisions of section 105.460, except that such official may act on increases in compensation subject to the restrictions of section 13 of article VII of the Missouri Constitution.

The facts establish that you did in fact preside over and vote on certain matters relating to impeachment ordinances. Specifically, you presided over discussions about a proposed ordinance to authorize the city to retain legal counsel to provide advice to the board of aldermen regarding possible removal from office of an elected official. Ultimately, after consulting with the city attorney, you cast a tie-breaking vote to defeat a motion to call the question and cease discussion on the ordinance.

While your vote effectively stopped further action on the ordinance at that time, there were not reasonable grounds to find that the vote violated Section 105.452.1(4), RSMo, because you did not favorably act on a matter that provided either you or your family with a special monetary benefit.<sup>1</sup>

The Commission also finds that you were not required to file an interest statement with the city clerk under Section 105.461.1, RSMo, because your actions as it related to ordinances relating to the impeachment process for city officials did not trigger any "substantial personal or private interest in any measure, bill, order or ordinance" as that phrase is defined in Section 105.450(11), RSMo.

Nor did your actions in presiding over and participating in certain ordinances relating to the impeachment of public officials violate Section 79.120, RSMo, which prohibits the mayor of a third class city from presiding or voting in cases when he is an interested party. The statute in full provides:

The mayor shall have a seat in and preside over the board of aldermen, but shall not vote on any question except in the case of a tie, nor shall he preside or vote in cases when he is an interested party. He shall exercise a general supervision over all the officers and affairs of the city, and shall take care that the ordinances of the city, and the state laws relating to such city, are complied with.

Staff reviewed the relevant case law to determine those situations where the courts have considered the mayor to be an "interested party" as set out in the statute. The cases describe an "interested party" as a person with a direct pecuniary interest or a personal interest, such as a deep personal enmity toward another official. See *State ex. rel. Ciaramitaro v. City of Charlack*, 679 S.W.2d 405 (Mo. App. E.D. 1984).

Review of the city's meeting minutes established that there is no evidence that your actions were a result of a direct pecuniary interest. Your actions in presiding over and voting on issues that related, at least indirectly, to potential actions the board of aldermen might take to pursue an impeachment action against you do create questions as to your motivation for not recusing from these matters. However, the investigation concluded that your actions do not constitute the type of direct personal interest that courts have found when, for instance, a mayor votes to increase her own salary. See *City of Velda City v. Williams*, 98 S.W.3d 880 (Mo. App. E.D. 2003).

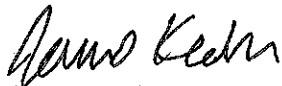
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<sup>1</sup> After casting this vote, the board of aldermen later adopted a different ordinance to retain outside counsel to advise the board regarding possible impeachment proceedings. At the same meeting, the board failed to adopt Articles of Impeachment against Mayor Furrer. Subsequent to that meeting, Mayor Furrer presented the board with a letter vetoing the outside counsel ordinance, stating some technical concerns with the ordinance as well as his belief that, given the board's failure at the previous meeting to adopt Articles of Impeachment, it would not be prudent for the city to potentially spend funds on an issue that would not go forward. While this part of his veto letter may lend some credibility to the allegation that Mayor Furrer had a conflict of interest, this letter does not provide support that his earlier vote or his veto, assuming that either could be fairly characterized as "favorable actions", were taken to achieve a special monetary benefit for him or his family.

While the Commission concludes that the relevant law does not support a finding of reasonable grounds to believe that you violated Section 79.120, RSMo, the Commission cautions you to avoid situations where your act of presiding or voting on a pending matter may violate Section 79.120, RSMo.

From the facts presented, and after applying the relevant statutory and case law to those facts, the Commission finds no reasonable grounds exist to support a violation of Chapter 79, RSMo, or Chapter 105, RSMo, and is dismissing the complaint.

Sincerely,



James Klahr  
Executive Director